

**REMARKS**

Claims 1-79 are pending in this application. Applicant affirms the Examiner's Restriction of claims 41-63 during a telephone conversation on January 12, 2006. Accordingly, in the interest of expediting prosecution of this application, claims 41-63 are hereby canceled without prejudice, though Applicant reserves the right to prosecute the subject matter of these claims in the future. The Examiner also objects to claims 15, 29, 35, 64, 72 for being substantial duplicates of claim 1. To expedite prosecution of this application, Applicant amends claims 15, and 29 and cancels claims 35-40 and 64-79 as indicated above. Support for these amendments can be found throughout the present application, and in particular in the originally filed specification and in the drawings. For example paragraphs 0051-0052 and FIGS. 2-4. Thus, no new matter is introduced by these amendments.

Rejections under U.S.C. § 103(a)

The Examiner rejects claims 1-8, 11-32, 34-38, 40, 64-67, 69-75, 77-79 under 35 U.S.C. § 103(a) as allegedly being obvious over Oman (US Patent 2,007,810) in view of Buchalski (US Patent 5,816,484). The Examiner also rejects claims 9, 10, 33, 39, 68, 76 as allegedly being obvious over the Oman and Buchalski and further in view of Suh (U.S. Patent 5,106,882). Applicant respectfully traverses each of these rejections.

Rejection of Claims 1-14

In the Office Action dated January 25, 2006, the Examiner acknowledges that Oman does not disclose an integrally formed polymeric container with a rim projecting outwardly from the body portion. The Examiner thus relies upon Buchalski to remedy the deficiencies of Oman. As MPEP §706.02(j) indicates:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to

one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

Applicant respectfully submits that the combination of Oman and Buchalski does not satisfy the criteria to establish a *prima facie* case of obviousness.

For example, claim 1 recites "a rim encompassing and projecting laterally outwardly from the continuous body portion" which has "a first minor flap integrally connected to the rim along a first fold line". As the Examiner acknowledges, Oman does not disclose an integrally formed polymeric container with a rim projecting outwardly from the body portion. The Examiner thus relies upon Buchalski to teach these features. Applicant respectfully submits that Buchalski does not even disclose a rim as claimed, let alone could there be any reasonable expectation of success that the features of Buchalski could be combined with the box of Oman.

Specifically, and in contrast with the suggestion of the Examiner, the step 89 of Buchalski is spaced vertically from the upper edge of the container side wall, as depicted in FIGS 7 and 8. As such, the step 89 does not define a laterally projecting rim to which the flaps are integrally connected as claimed. Hence, even if there were motivation or suggestion to combine the features of Buchalski with the blank of Oman, such combination would not include each and every feature as claimed. Accordingly, the Applicant respectfully requests that the Examiner rescind the USC § 103(a) rejection of claims 1-14.

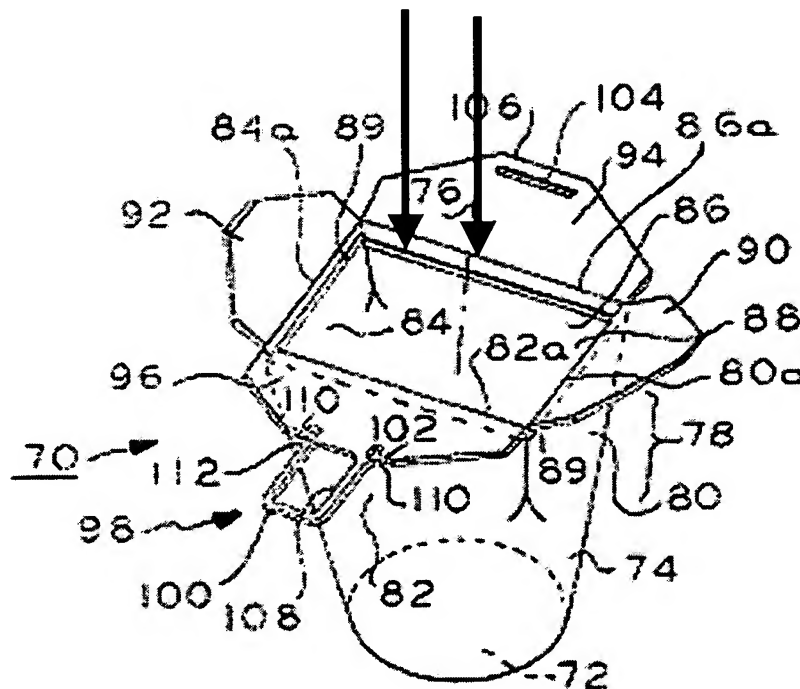
#### Rejection of Claims 15-34

Applicant respectfully submits that none of the prior art cited, individually or in combination, disclose all of the limitations of the claims, as amended. Amended claim 15 recites, *inter alia*, a flap "having a portion which overlies the rim when the container is in a closed position", and amended claim 29 recites, *inter alia*, that each flap is "integrally connected to the outer periphery of the rim".

As the Examiner acknowledges, the Oman reference does not disclose a container having a rim portion whatsoever. Likewise, neither the Tang (US Patent 5,685,478) or Shuh (US Patent

5,106,882) references relied upon by the Examiner disclose a container having an outwardly extending rim. Thus, the Examiner relies on Buchalski to disclose an integrally formed container having a rim portion. However, the Buchalski reference does not disclose a rim as claimed in the present invention.

Rather, and in distinct contrast with the invention as recited in amended claims 15, and 29, Buchalski discloses in column 5, lines 20-23, "the side walls 80, 82, 84, and 86 each gradually curve and terminate at a respective upper linear edge formed into respective linear living hinges 80a, 82a, 84a, and 86a". Although Buchalski discloses in lines 33-35 that "an outwardly extending step 89 forming an upwardly facing shoulder is formed in each side wall adjacent to the corresponding hinge", it is evident from FIGS 7-8 that the steps 89 are spaced vertically from the terminal end of the upstanding sidewalls. Figure 7 of Buchalski is reproduced below for the Examiner's convenience. Emphasis is drawn to the outer periphery of step 89 which is spaced vertically from the hinge 86a. Hence, and as previously noted, the step 89 of Buchalski does not define an outwardly projecting rim to which the flaps are integrally connected.



Furthermore, Buchalski does not disclose or suggest having "a portion which overlies the rim when the container is in a closed position" as recited in amended claim 15; or (ii) "integrally connected to the outer periphery of the rim" as recited in claim 29.

Therefore, the containers of Oman and Buchalski individually or in combination, do not disclose, among other things, the flaps as claimed. Likewise, neither Tang nor Shuh disclose or suggest the claimed features as discussed above. Indeed, there is no suggestion or motivation provided by the prior art of record to modify or combine the flap portions of Oman or Buchalski as recited.

Consequently, the prior art of record, taken individually and in combination, does not disclose or suggest the container as recited in amended claims 15 and 29 of the present application. Moreover, dependent claims 16-28 and 30-34 are further allowable for reciting additional features not disclosed by the prior art relied upon by the Examiner. For example, claims 16-18, 30-32 recite additional features of a handle portion, claims 19-23 recite features of the securing portions, and claims 24-28, 33-34 recite the preferred composition and configuration of the container.

Accordingly, Applicant respectfully submits that this patent application is in condition for allowance, and respectfully requests a timely notice of allowance.

#### Formal Request for Interview

In the event that the Examiner does not find the application to be in condition for allowance, Applicant respectfully requests an interview with the Examiner to discuss the present application and the prior art of record, and to provide assistance or additional information as required. In this event, the Examiner is respectfully requested to telephone the Applicant's Attorney to schedule a mutually convenient date and time.

#### **CONCLUSION**

On the basis of the foregoing Amendments and Remarks, Applicant respectfully submits that the pending claims of the present application are allowable over the prior art of record.

Applicant thus respectfully requests that the previous objections and rejections be withdrawn, and that claims 1-34 be allowed by the Examiner. Favorable consideration and timely allowance of this application are respectfully requested.

Applicant authorizes the Commissioner to charge any additional fees and/or credit any overpayments associated with this paper to Winston & Strawn Deposit Account No. 50-1814, Ref. No. 86012-34800-USPT. Further, if a fee is required for an extension of time under 37 C.F.R. § 1.136 not provided for above, Applicant requests such extension and authorizes the charging of the extension fee to Winston & Strawn Deposit Account No. 50-1814, Ref. No. 86012-34800-USPT.

Respectfully submitted,

4/25/06  
Date

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